IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 769 of 2005

Between:

1 R. Lakshmaiah, S/o. Ramaswamy,
R/o. 3/376, Lakshmipuram, Stonehousepet, Nellore-2.
2 R. Srinivasa Rao, S/o. Ramaswamy,
R/o. Sri Venugopal Swamy Garden, Navalakh Gardens, Nellore-524 002.

..... PETITIONERS

AND

1 The District Collector, Nellore District, Nellore.
2 The Land Acquisition Officer-cum- The Revenue Divisional Officer, Nellore.
3 The Mandal Revenue Officer, Nellore Mandal, Nellore.
4 The Superintendent of Police, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an order or orders or writ more particularly one in the nature of writ of Mandamus declaring the action of the respondents in allowing the land in an extent of 1.5 acres in Sy.No.319/2 of Bit-II of Nellore, to be encroached which forms part of Sec.4(1) Notification under the Land Acqusition Act issued on 12.2.1997 in contravention to the purpose and purpose of the acquisition as being arbitrary, illegal and violative of the petitioners rights and consequently direct the respondents to safeguard the schedule land in the interest of justice and pass such other order or orders.

Counsel for the Petitioner : M/S C.KODANDA RAM

Counsel for the Respondent Nos.1 & 3: GP FOR REVENUE

Counsel for the Respondent No.2 : GP FOR LAND ACQUISITION

The Court at the stage of admission made the following :

ORDER:

Heard both sides.

In this Writ Petition, petitioners are seeking a Writ of Mandamus, declaring the action of the respondents in allowing the land in an extent of Ac. 1.5 cents in S.No. 319/2 of Bit-II of Nellore, to be encroached which forms part of Sec. 4(1) Notification under the Land Acquisition Act issued on 12.2.1997 in contravention to the purpose and purpose of the acquisition, as being arbitrary, illegal and violative of the petitioners rights and consequently direct the respondents to safeguard the schedule land in the interest of justice.

Brief facts of the case are that the petitioners' late mother was a tenant of the land admeasuring Ac. 5.75 cents situated in S.No. 319/2 of Bit-II, Nellore and they have been in peaceful possession and enjoyment of the land under the lease agreement since 1934. As the lands were barren and unfit for cultivation petitioners developed the land into an agricultural land. While so, the District Collector, Nellore, in connivance with the Managing Trustee Sri Anam Vivekananda Reddy, had instigated certain persons to occupy the land and about 150 persons had illegally entered into the land with the active support of the revenue authorities. Questioning the above arbitrary action, they filed Writ Petition No. 7473 of 1994 and this court by an order dated 18.1.1996 allowed the Writ Petition directing the respondents to evict

the persons who have illegally inducted by the respondents and to deliver vacant possession of the land to the petitioner. Aggrieved by the same, respondents filed an appeal W.A.No. 1127 of 1996 and this court by an ordered dated 18.11.1996 dismissed the Writ Appeal. Aggrieved by the same, respondents preferred SLP No. 3926 of 1997 to the Hon'ble Apex Court and the Hon'ble Apex Court while disposing of the above SLP confirmed the Division Bench Judgment and imposed exemplary costs of Rs. 25,000/- and further given two weeks time to file Writ Petition challenging the 4(1) notification issued by the Revenue Authorities. Again challenging the 4(1) notification, petitioners filed W.P.No. 30924 of 1997 and pending the Writ Petition, the court was pleased to grant stay of the 4(1) notification, however, the said Writ Petition was dismissed by an order dated 26.12.2003 upholding the 4(1) notification. That being so, the respondents are now allowing the encroachers to occupy the remaining land of Ac. 1.5 cents. Aggrieved by the same, petitioners have come up with the present Writ Petition.

Considering the above facts and circumstances of the case, as the respondents have already started Land Acquisition Proceedings to acquire the land and provide house sites to the landless poor, the relief as prayed for by the petitioners cannot be granted. Therefore, I see no reason to entertain the Writ Petition and accordingly, the Writ Petition is dismissed at the stage of admission. No order as to costs.

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E. DHARMA RAO, J

DATED: 13/06/2005

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To

1 The District Collector, Nellore District, Nellore.
2 The Land Acquisition Officer-cum- The Revenue Divisional Officer, Nellore.
3 The Mandal Revenue Officer, Nellore Mandal, Nellore.
4 The Superintendent of Police, Nellore.

5 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad (OUT)

6 Two CCs to the Government Pleader for Land Acquisition, High Court of A.P., Hyderabad (OUT)

7 Two CD copies